

**SEP 26 2007**

*United States v. Roberds*, No. 06-30511+  
WALLACE, Circuit Judge, concurring and dissenting:

CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS

I agree with the majority's affirmance of the convictions of Byron Williams and Roderick Williams. But I would also affirm Paula Roberds' conviction. Viewing the evidence in the light most favorable to the government, a rational trier of fact could have found that Roberds maintained, at least in part, a drug-involved premises in violation of 21 U.S.C. § 856(a)(1), (b).

In addition to evidence that Roberds was fully aware that Williams was manufacturing, distributing, and using drugs in the apartment that they shared, there are two additional pieces of evidence that a rational jury could have relied on to conclude that Roberds possessed the requisite *mens rea* for her conviction. First, the government presented testimony that Roberds drove a vehicle during what the jury could find to be a drug transaction; when searched, the vehicle yielded an open, cash-filled purse believed to belong to Roberds. Although her participation in that drug transaction does not directly prove that she maintained her apartment for drug-related purposes, in a light most favorable to the government it supports an inference the jury could properly draw that she was involved and, together with the evidence found in the apartment itself, that she had, as one purpose of maintaining her apartment, the facilitation of Williams' drug business.

Second, reviewing the evidence in a light most favorable to the government, a rational jury could have concluded that the notebook in evidence belonged to Roberds and that the list of drug quantities and prices was in her handwriting. The notebook begins, “I Paula Roberds.” The majority speculates it may not be in her handwriting but the jury can make a different finding and, reviewing in a light most favorable not to the majority’s view but to the government, it did. This suggests at least some active participation in the drug business going on in her apartment and a rational jury could have concluded that Roberds was not merely a passive observer, but that she actively participated in Roderick Williams’ drug transactions.

The statute does not require that Roberds’ *sole* purpose in maintaining the apartment was to manufacture, distribute, or use a controlled substance. *See United States v. Tamez*, 941 F.2d 770, 773-74 (9th Cir. 1991). That one of her purposes in maintaining the apartment was to facilitate the sale of drugs could have been inferred by a rational jury based on the evidence presented, and I would affirm Roberds’ conviction.